

CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING
MINUTES

February 10, 2011

Chairman T. Michalski called the meeting to order at 4:00 p.m. and roll was taken.

MEMBERS PRESENT: L. Spataro, B. Turnquist, B. Smith, T. Michalski, W. Parker, B. Mazade

MEMBERS ABSENT: S. Warmington, B. Larson

STAFF PRESENT: M. Franzak, D. Leafers

OTHERS PRESENT: J. Schrier, Parmenter-O'Toole; J. Rooks, 750 Terrace Point Dr.

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of November 10, 2010 be approved, was made by B. Turnquist, supported by L. Spataro and unanimously approved.

B. Smith arrived at 4:03 p.m.

PUBLIC HEARINGS

Case 2011-01: Staff-initiated request to amend Section 1500 (Principle Uses Permitted) of Article XV (I-2, General Industrial Districts) of the zoning ordinance to allow medical marijuana caregiver facilities as a principal use permitted in I-2, General Industrial Districts. The City Commission passed a sixth month moratorium on medical marijuana facilities on May 11, 2010. The moratorium was extended an additional 90 days on December 14, 2010. The moratorium will expire on March 14, 2011. Staff from Planning, City Clerk, Police and the Managers Office have been working with city attorney John Schrier on developing the proposed ordinance. Under the Michigan Medical Marijuana Act, qualifying patients may either grow their own product, up to 12 plants, or they may obtain it from a caregiver. Caregivers may have a maximum of 5 patients and are allowed to grow up to 12 plants per patient. The proposed amendments would allow qualifying patients to grow their own at home without any involvement from the City. However, caregivers will only be allowed to grow in I-2, General Industrial Zones and must follow the licensing guidelines of the City. Caregivers will not be allowed to have signage. A letter from City Attorney John Schrier was provided to board members.

T. Michalski asked what the rationale was for the I-2 zoning designation. M. Franzak stated that many of these facilities had heavy-duty equipment needs, including lighting/electricity for growing plants, as well as irrigation/water needs. T. Michalski asked if the City would license those businesses. M. Franzak stated that they would be licensed through the City Clerk's office as any other City business would. The Inspection Department may also become involved if necessary. B. Turnquist asked what the process was for opening this type of facility. M. Franzak stated that the Planning Commission was one of the first steps, then the request would go to the City Commission for approval. Regulation of the business was more of a City

Commission issue; the Planning Commission dealt more with where it could be located. The board and the City Attorney discussed current regulations regarding the manufacture & use of medical marijuana.

A motion to close the public hearing was made by B. Mazade, supported by B. Smith and unanimously approved.

A motion that the proposed amendment to Section 1500 (Principle Uses Permitted) of Article XV (I-2, General Industrial Districts), of the City of Muskegon Zoning Ordinance, be recommended to the City Commission for approval was made by B. Smith, supported by B. Mazade and unanimously approved.

M. Franzak requested that planning commissioners hear case 2011-03 next, before 2001-02, since there was a party who wanted to speak regarding case 2011-02 that was not yet present. Board members concurred.

Hearing, Case 2011-03: Staff-initiated request to rezone the property at 1221 W Laketon Avenue from RM-2, Medium Density Multiple Family Residential District to R-1, Single Family Residential District. The property is a 5.63 acre parcel that presently contains a building owned by Every Woman's Place and used as a women's residential shelter. In September 2007, this parcel was rezoned from R-1, Single Family Residential District to RM-2, Medium Density Multiple Family Residential District. In September 2008, City staff submitted a request to rezone the property back to R-1. That request was tabled until the May 2009 Planning Commission meeting where it was denied, and was then denied by City Commission on May 26, 2009. In April 2009, the Planning Commission approved a request by Every Woman's Place for a 42,000 square foot addition to the existing 22,075 square foot building. However, it appears that their expansion plans have stalled, and at the request of some City Commissioners, this rezoning request is now before you. A definition for Transitional Living Centers was approved by Planning Commission and City Commission in October 2010, and the zoning ordinance was amended to allow Transitional Living Centers only in B-5, Governmental Service Districts. This amendment made Every Woman's Place a legal non-conforming use. Any addition to the current Transitional Living Center would need Planning Commission approval and may not exceed 25% of the current size of the facility. This would be required whether the property is rezoned or not. Both Nims and Campbell neighborhood residents have shared concerns over the current zoning of the property and the impact a large-scale residential development, which would be allowed in RM-2 Districts, would have on the neighborhoods. Staff recommends approval of the request to rezone the subject property from RM-2 to R-1, because the request conforms to the goals and recommendation of the City's 1997 Master Plan and Future Land Use Plan and zoning district intent.

B. Mazade stated that he had requested that staff initiate this rezoning request. At the time the parcel was rezoned to RM-2, Every Woman's Place (EWP) had an expansion plan for the building. That expansion has not happened. L. Spataro stated that he attended the Nims Neighborhood meetings as their City Commission representative and was speaking on behalf of the residents who voiced concerns to him about the RM-2 zoning of the property. L. Spataro stated that he didn't want to impede what EWP intended to do, but he wanted to protect the neighborhood from other uses that are allowed in an RM-2 district. B. Turnquist stated that he preferred to see a demand for a residential use on this parcel first, before it was rezoned again. He did not foresee that happening due to it being along a busy corridor. L. Spataro stated that the surrounding areas were all zoned R-1 and OSC, Open Space Conservation, and the neighbors

wanted to keep it that way. B. Mazade stated that the property was rezoned to RM-2 in response to a specific proposal, but that had not materialized; therefore, he stated that it would be fitting to rezone the parcel back to R-1. T. Michalski stated that doing so would seem to make the use more non-conforming. M. Franzak stated that the correct zoning for this type of use was now B-5, so it would still be non-conforming, but not more so. B. Smith asked M. Franzak if any City staff had spoken to Sue Johnson from EWP. M. Franzak stated that Cathy Brubaker-Clarke had been in contact with someone at EWP.

A motion to close the public hearing was made by B. Mazade, supported by L. Spataro and unanimously approved.

B. Turnquist was concerned about whether EWP was aware of this rezoning request. B. Smith was concerned that the request originated with a City Commissioner. B. Mazade stated that he was actually the one who asked that staff put this on the agenda. L. Spataro stated that he had intended to bring up the subject at today's meeting, but then saw that it was already on the agenda.

A motion that the request to rezone the property located at 1221 W Laketon Avenue from RM-2, Medium Density Multiple Family Residential District to R-1, Single Family Residential District, as described in the public notice, be recommended for approval to the City Commission pursuant to the City of Muskegon Zoning Ordinance and the determination of compliance with the intent of the City Master Land Use and zoning district intent, was made by L. Spataro, supported by B. Mazade and approved, with T. Michalski voting nay.

Hearing; Case 2011-02: Staff-initiated request to amend Section 2331 (Landscaping, Fencing, Walls, Screens and Lighting) of Article XXIII (General Provisions) of the zoning ordinance to modify the guidelines on outdoor lighting. M. Franzak presented the staff report. The outdoor lighting provisions in the zoning ordinance state that all lighting must be down-type, having 100% cutoff. Many business owners feel that this is too restrictive and that we can still maintain a dark sky initiative while allowing buildings to be illuminated properly. Under the current provisions, you may not illuminate a building from the ground up, but you may illuminate a sign from the ground up. There are numerous businesses that legally illuminate their signage from the ground up, and many of these signs are on the buildings themselves. These signs are properly lit and do not cause any glare or light spill. Staff recommends approval of the proposed amendments because the request conforms to the goals and recommendation of the City's 2008 Downtown and Lakefront Redevelopment Plan to "install a unified system of street furniture, lighting, and signage throughout the Downtown core" and "evaluate lighting to ensure nighttime safety and aesthetics and the proper extension of architectural lighting into adjacent areas." The City of Muskegon is not a member of the International Dark-Sky Association (IDSA).

M. Franzak provided pictures of several different examples of night lighting to board members. T. Michalski asked why the City was not a member of the IDSA. M. Franzak stated that the City did not qualify for the stringent requirements due to the amount of lighting already present. J. Rooks owned the Shoreline Inn, which was a 10-story building that was set well off the main roadway. He stated that at night you could not tell that the building was there. It also had unique architectural elements that he would like to highlight. He showed board members a drawing of the type of lights he wanted to use. B. Mazade asked M. Franzak if the revised ordinance would allow that type of lighting. M. Franzak stated that it would, since the light would not extend past the top of the building. B. Turnquist asked if the ordinance would benefit other businesses as well. M. Franzak stated that it would, as he had had many inquiries about the City's light

ordinance and had been working on revisions to it prior to Mr. Rooks' request. L. Spataro stated that the ordinance revisions were more business-friendly, and pointed out that the City had not pursued any dark sky accreditation.

A motion to close the public hearing was made by B. Turnquist, supported by B. Mazade and unanimously approved.

A motion that the amendment to Section 2331 (Landscaping, Fencing, Walls, Screens and Lighting) of Article XXIII (General Provisions) of the zoning ordinance to modify the guidelines for outdoor lighting, be recommended to the City Commission for approval, was made by B. Turnquist, supported by B. Mazade and unanimously approved.

OLD BUSINESS

None

OTHER

Board Elections – T. Michalski asked that elections be held at the March meeting.

There being no further business, the meeting was adjourned at 5:11 p.m.